

## **CITY BOARD OF ZONING APPEAL #05009**

**DATE:** May 6, 2005

**DATE SCHEDULED FOR PUBLIC HEARING:** May 20, 2005

**LOCATION:** Generally located at N. 33<sup>rd</sup> and O Streets.

**ADDRESS:** 3300 O Street and 110 N. 33<sup>rd</sup> Street.

**LEGAL DESCRIPTION:** See attached.

**APPLICANT:** J. Michael Rierden  
645 M Street, Suite 200  
Lincoln, NE 68508  
(402) 476-2413

**LOT AREA:** 0.5 acres, more or less.

**ZONING:** B-1, Local Business District.

**EXISTING LAND USE:** Commercial.

### **SURROUNDING LAND USE AND ZONING:**

North:	Residential	R-4
South:	Commercial	B-1
East:	Commercial	B-1
West:	Commercial	B-1

### **TYPE OF APPEAL:**

THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO A VARIANCE.

Section 27.15.080(a), L.M.C. requires a side yard setback of 10 feet. A variance of the side yard setback along the north property line from 10 feet to 0 feet is requested.

### **STAFF FINDINGS:**

1. This is a request to reduce the side yard setback from 10' to 0' to allow for stacking of vehicles in a drive through lane.
2. The applicant indicated this lot is unusual because it is a corner lot with a significant slope from the north to south of approximately 20'.
3. There is an alley separating the commercial and residential lots.
4. The request is over four lots each of equal size. One of the lots is a corner lot.

During the building permit process, the Building and Safety Department will treat the four lots as one parcel. The parcel will provide for two front yard setbacks.

5. Double frontage lots are typical along major streets due to limited access rights to major streets.
6. All lots must provide a front yard setback along abutting streets.
7. The lots are typical of other lots along "O" Street. The lot is with no drastic grade changes nor an atypical lot configuration. The grade change on the lot is gradual to the north and east and does not appear to prevent the reasonable use of the property.
8. Reducing the side yard setback along the north side will bring the commercial use ten feet closer to the residential uses to the north. This could cause an adverse impact upon adjacent residential property values.
9. Granting this variance will cause an inconsistency with this property and adjacent similar commercial properties and is inconsistent with the goals of the Comprehensive Plan. The Comprehensive Plan indicates that there should be a transition of uses from more intense uses to less intense uses. Moving a drive through lane ten feet closer to a residential district is increasing the intensity and reducing the transition area.
10. Since this is a corner parcel, the applicant may determine the location of the side and rear yards. The applicant could revise the location of the yards to provide the rear yard along the north property line and the side yard along the east property line. The rear yard setback is 30' in the B-1 district, however, the rear yard may be used for parking in this district. Parking would be a less intense use than a drive through lane. The drive through lane could then be placed on the east side of the building, if desired. A side yard setback is only necessary when the B-1 district is abutting a residential district. If the side yard was determined to be the east property line, then the required side yard setback would then be 0'. The applicant would gain additional buildable area by changing the side and rear yards on their application.
11. The Board of Zoning Appeals is empowered to grant variances "to the extent necessary to permit the owner a reasonable use of the land in those specified instances where there are peculiar, exceptional and unusual circumstances in connection with a specific parcel of land, which circumstances are not generally found within the locality or neighborhood concerned."
12. It appears that the property owner has reasonable use of their property without a variance. It appears that the property is substantially similar to other properties in the City. Many other business districts are abutting residential districts and it is

common to have an alley separate the two, however it may be more typical that the abutting lot line is a rear yard, versus a side yard.

13. If this appeal were not granted, the property owner could construct a building and parking within the allowed buildable area of the lot.

Prepared by

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Planner

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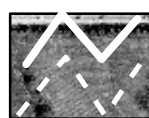
2002 aerial

## Board of Zoning Appeals #05009 3302 O St.

### Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 19 T10N R7E



Zoning Jurisdiction Lines

City Limit Jurisdiction

